

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-3508.M4

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 5/30/02.

I. DISPUTE

Whether there should be reimbursement for chronic pain program – 97799-CP from 8/30/01 Through 10/23/01 denied by the carrier for “E” – entitlement, “R” – not related to the compensable injury and “V” – not medically necessary based upon peer review.

II. RATIONALE

The issues of entitlement and extent and duration went to a Benefit Review Conference (BRC) on 2/12/03. The Decision of Hearing officer stated, “The September 18, 2000 compensable injury does not include an injury to Claimant’s spine in the form of degenerative disc disease. Carrier waived its right to contest compensability of the claimed injury by not timely contesting the injury in accordance with Tex. Labor Code 409.021 and 409.022. Carrier did not waive its right to contest whether the compensable injury aggravated or caused degenerative disc disease. Claimant had continuing pain with segmental rigidity from his compensable injury at the time he began the PRIDE program.” Therefore, the issue of whether a compensable back injury has been found in the injured worker’s favor and the carrier can still question the chronic degenerative disc disease.

This issue would normally be determined based upon the diagnosis codes listed on the billing. The bills reflected lumbago 724.2, stiffness of joint 719.5, muscle atrophy 728.2 and psychiatric factor 316.0. These codes could be used for both the compensable acute back injury and the disputed chronic back injury.

As the requestor has not offered billing clearly indicating whether the bills are for the compensable or disputed condition, reimbursement is not recommended.

III. DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is not** entitled to reimbursement for 97799-CP.

MDR: M4-03-7600-01

The above Findings and Decision are hereby issued this 16th day of January 2004.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division